THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.17741 of 2003

Dated 07-07-2006

Between:
R.Gnanamma.

..... PETITIONER

AND

The Court of Principal Junior Civil Judge-cum-Election Tribunal Tirupathi, Chittoor District & others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.17741 of 2003

O R D E R:

Aggrieved by the order in E.O.P.No.21 of 2001 dated 11-08-2001 of the Principal Junior Civil Judge-cum-Election Tribunal, Tirupathi, Chittoor, the present writ petition is filed.

The petitioner contested for the 10th ward of Renigunta Gram Panchayat, which was reserved in favour of Backward Class-women, and was successful in the elections held in the year 2001. The second respondent herein filed election petition in E.O.P.No.21 of 2001 before the Principal Junior Civil Judge, Tirupathi, contending that the petitioner herein belongs to the scheduled caste and inasmuch as she was not a member of the backward class, she was not entitled to contest for the seat reserved exclusively for the backward class. The petitioner was set *ex parte* on 02-05-2002. It is her case that on 25-07-2003 she filed I.A.S.R.No.15397 of 2003 to set aside the *ex parte* order and I.A.S.R.No.15398 of 2003 to receive certain documents. Both the I.As were returned by the office with certain objections and ten days time was granted for compliance thereof. Both the I.As were re-presented on 05-08-2003. It is the petitioner's case that despite both the I.As being re-presented on 05-08-2003, without any orders being passed thereon, the first respondent pronounced judgment on 11-08-2003 setting aside the election of the petitioner herein.

Sri R.V.Chalapathi, learned counsel for the petitioner, would take this Court through the order in E.O.P.No.21 of 2001 wherein the petitioner herein was held to be a member of the scheduled caste based on Exs.A.3 and A.4. Ex.A.3 is the duplicate copy of the transfer certificate issued by the school authorities to Sri R.D.Prabhu Kumar, the petitioner's son and Ex.A.4 is the duplicate copy of the admission register of Sri R.D.Prabhu Kumar. Since both these documents reveal that Sri R.D.Prabhu Kumar, belongs to the scheduled caste, the Election Tribunal held that the petitioner, Sri R.D.Prabhu Kumar's mother, also belongs to

the scheduled caste and as such, was not entitled to contest for the seat reserved in favour of Backward Class (women category). The Learned Judge also found fault with the nomination of the petitioner based on the certificate issued by the Village Administrative Officer and held that it is only the caste certificate issued by the Mandal Revenue Officer, which could have been accepted.

On a query from this Court as to whether the writ petition survived adjudication since the term of office of the members of the erstwhile Gram Panchayat had already come to an end, Sri R.V.Chalapathi, learned counsel for the petitioner, submits that in view of the declaration by the Election Tribunal that the petitioner did not belong to the backward class, even though it was true that the term of office had come to an end, petitioner would be disentitled from contesting in the ensuing elections under the backward class category. Learned counsel would submit that the petitioner is an Adi Andhra (Christian) and belongs to the backward class, that she married a person belonging to the scheduled caste and as such her son, Sri R.D.Prabhu Kumar, acquired the social status of his father as reflected in Exs.A.3 and A.4. Learned counsel would submit that marriage to a scheduled caste would not enure to the benefit of the wife and she could not claim the status of the scheduled caste merely by marriage.

I find considerable force in this submission. As held by the Supreme Court in **Valsamma Paul v. Cochin University**[1] and **Sobha Hymavathi Devi v. Setti Gangadhara Swamy**[2], marriage with a male belonging to the scheduled caste would not entitle her to the facility of reservation given to the scheduled castes. A woman who does not belong to the scheduled caste does not fall under the scheduled caste, category by marriage. This finding of the Election Tribunal that the petitioner belongs to the scheduled caste is, therefore, set aside. It is wholly unnecessary for this Court to examine the question, as to whether the caste certificate issued by the Village Administrative Officer would suffice

or whether the certificate issued by the Mandal Revenue Officer alone would satisfy the requirement of filing a nomination, since the term of the office of the petitioner as a ward member of the Gram Panchayat has already come to an end. This question is now academic and such academic questions do not call for adjudication in proceedings under Article 226 of the Constitution of India. For the same reasons, the question as to whether the Tribunal ought to have passed orders on both the I.As, filed prior to the judgment being pronounced in the main E.O.P., need not be examined. The order of the Tribunal, to the extent indicated above, is set aside on merits.

The writ petition is allowed to the extent indicated above. However, in the circumstances without costs.

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07-07-2006

usd

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[1] AIR 1996 SC 1011

[2] AIR 2005 SC 800